

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF: DYERSVILLE IMPLEMENT, INC.; Dubuque County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2007-WW- 05
---	---

TO: Loras Gravel
Dyersville Implement, Inc.
13845 Route 136
Dyersville, IA 52040

I. SUMMARY

This Administrative Consent Order (Order) is entered into between the Iowa Department of Natural Resources (Department) and Dyersville Implement, Inc. (Dyersville Implement) to resolve past wastewater violations by Dyersville Implement. Pursuant to this order, Dyersville Implement shall:

- By April 15, 2007, remove and properly dispose of all contaminated soil at the outlet of the tile line that formerly discharged wastewater from the Dyersville Implement facility to the North Fork of the Maquoketa River; and
- Pay an administrative penalty in the amount of \$7,500.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Mike Wade
IDNR Field Office #1
909 W. Main Street, Ste. 4
Manchester, Iowa 52057
Ph: 563-927-2640

Relating to appeal rights:

Jon C. Tack
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515/281-8889

Appeal, if any, addressed to:

Director, Iowa Dept. of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

82072 MAR21 '07 AM 11:45

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
Dyersville Implement, Inc.**

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and chapter 567 Iowa Administrative Code (IAC) 10 which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Dyersville Implement operates a facility located at 13845 Route 136, Dyersville, Iowa.
2. At approximately 9:00 AM on February 22, 2006, Loras Gravel of Dyersville Implement contacted Department Field Office #1 to report that around 50 gallons of waste oil was spilled and had entered a floor drain at his place of business. Mr. Gravel reported that the floor drain was connected to a tile line that could discharge to the North Fork Maquoketa River.
3. At approximately 11:30 AM on February 22, 2006, Department personnel arrived at the facility and learned that a small amount of waste oil was discharging from a tile outlet near the North Fork. Environmental Specialists Don Chase and Mike Wade instructed employees of Dyersville Implement to dam the site to prevent any material from entering the North Fork. Mr. Chase and Mr. Wade then met with Loras Gravel and discovered that all floor drains and the septic tank of the facility had been connected to the tile line since the facility was constructed approximately at least 38 years ago. The Department informed Mr. Loras Gravel that he needed to acquire the services of an environmental company to conduct a site assessment and to determine the proper method to dispose of the petroleum contaminated water. Mr. Wade provided Mr. Gravel a list of contractors. Mr. Gravel reported that he would contact one of the companies on the list.
4. Department personnel returned to the site at approximately 2:00 PM on the 22nd and observed a large pool of black petroleum contaminated water behind the dam that had been constructed at the tile outflow point.
5. On February 23, 2006, Mr. Wade returned to the site at approximately 1:00 PM. Mr. Wade observed that some contaminated water had been pumped behind the dam, but the dam had been removed and there was only a few inches of accumulation space before petroleum contaminated water could discharge to the North Fork. Mr. Wade then went to the dealership office and again contacted Mr. Gravel by phone and was told that his employees had pumped up the material and had transported to a site in Central City. Mr. Wade asked Mr. Gravel if he had contracted with a company to evaluate the contaminated water and the site. Mr. Gravel reported that they had told him to do what he did. Mr.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
Dyersville Implement, Inc.**

Wade instructed Mr. Gravel that he must contain all water from the tile line and until it can be determined that there were no pollutants present, so the water could discharge to the river. Mr. Gravel reported that it could take a long time and they may have to pump for a long time. Mr. Gravel indicated that he would contact Advanced Service Corporation. He was directed to do this.

6. Following the site visit on February 23rd, Mr. Wade contacted Tad Cooper with Advanced Service Corporation in Marion. Mr. Cooper reported that Mr. Gravel did not inform him of the need for a site evaluation and that he was only aware of the need to dispose of water with waste oil. Mr. Wade informed Mr. Cooper that Mr. Gravel may be contacting him. Mr. Cooper indicated that Advanced Service Corporation could provide the necessary services.

7. On August 3, 2006, a site visit and inspection were conducted at the Dyersville Implement property. On that date, all floor drains leading to the tile line had been plugged. A dye test was conducted and confirmed that the floor drains at the facility were connected to the tile line that discharged to North Fork Maquoketa River.

8. On August 29, 2006, the consultant for Dyersville Implement contacted the Department to confirm that test results had found low levels of volatile organic compounds in the tile discharge and that contaminated soil was present at the tile outlet.

9. On December 7, 2006, Dubuque County contacted the Department to confirm that a permitted on-site wastewater treatment facility had been completed at the Dyersville Implement facility.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. The above stated facts establish violations of this provision.

2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC 60 through 69. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Dyersville Implement has discharged untreated wastewater without a permit for greater than 38 years.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
Dyersville Implement, Inc.**

V. ORDER

The Department hereby orders and Dyersville Implement agrees to:

1. By April 15, 2007, remove and properly dispose of all contaminated soil at the outlet of the tile line that formerly discharged wastewater from the Dyersville Implement facility to the North Fork of the Maquoketa River; and
2. Pay an administrative penalty in the amount of \$7,500.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at Chapter 567 IAC 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with a civil penalty. The penalty assessed by this Order are determined as follows:

a. Economic Benefit. Dyersville Implement has been discharging wastewater contrary to law since at least 1968. Because the typical life expectancy of an appropriate wastewater treatment facility for this site is 25 years, Dyersville Implement has completely avoided the construction and operational costs for one such facility. The cost of such a facility can vary from a minimum of \$6,000 to a maximum of \$35,000 if the facility is intended to treat water discharging from floor drains from a vehicle repair area. Annual operational costs would range from \$500-\$1000 per year. During the incident that gave rise to this investigation, approximately 1,000 gallons of contaminated wastewater were discharged, which should have been pumped and treated. It is estimated that Dyersville Implement avoid as much as \$4,000 in disposal costs for this wastewater. In order to resolve this matter, only \$3,000 is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. Allowing wastewater from floor drains to discharge to a surface water of the state poses a significant risk of the release of toxic pollutants to such waters. In this case, contaminated soil at the tile outlet indicates that

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
Dyersville Implement, Inc.**

such toxic pollutants were discharged. Such discharges were ongoing for at least 38 years. The stream receiving the discharge, the North Fork of the Maquoketa River shows impairment for aquatic life uses. The impairment is indicated by low numbers of fish and invertebrate species. While the impairment can not be directly linked to the discharge from Dyersville Implement, such discharge is likely to be a contributing factor. In order to resolve this matter, only \$3,000 is assessed for this factor.

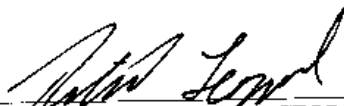
c. Culpability. Dyersville Implement has a duty to be aware of the wastewater system at their facility. A direct discharge of contaminated water from the floor drains of this facility has been prohibited throughout the entire period that Dyersville Implement has operated the site. Dyersville Implement has a duty to be aware of the prohibition against the discharge of pollutants to a water of the state without a permit. In order to resolve this matter, only \$1,500 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Dyersville Implement. By signature to this Order, all rights to appeal this Order are waived.

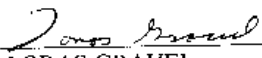
VIII. NONCOMPLIANCE

Compliance with section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. The Department reserves the right to issue an administrative order or to refer to the Attorney General's Office in lieu of collecting stipulated penalties pursuant to this Order.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 26 day of
March, 2007



LORAS GRAVEL
DYERSVILLE IMPLEMENT, INC.

Dated this 9 day of
March, 2007